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I. LAND AND PEOPLE

1. The land surface of Denmark covers an area of 43,094 square kilometres. Its population numbers 5.19 million people, of whom 85 per cent live in urban areas.

2. 96.4 per cent of the population are Danes, and the vast majority of them have Danish as their mother tongue. The main immigrant groups are those from Turkey, the United Kingdom, the former Yugoslavia, Norway, stateless persons, Germany and Sweden.

3. Although Denmark is a secular society, approximately 88 per cent of the population (87 per cent of the men and 90 per cent of the women) belongs to the National Lutheran Church, to which the members pay church tax. Most become members at birth as a consequence of the parents' membership. The remainder belong either to smaller religious groups, or have no specific religious beliefs.

4. The literacy rate is estimated at 100 per cent for Danish adults.

5. Life expectancy in Denmark is high, 72.4 years for men and 77.8 years for women. The fertility rate is 1.76 (1993). The infant mortality rate is 8.1 per 1,000 live births for boys and 6.0 for girls in 1991. Maternal mortality has for many years been below 10 cases per year.

6. The percentage of the population over 65 years of age is 15.4; for men the percentage is 12.9 and for women 17.9. 17.1 per cent of the population is under the age of 15 years; for men the figure is 17.8 and for women 16.5.

7. In 1993, 76 per cent of women aged 16-66 were in the labour force, compared with 83 per cent of men.

8. The number of households in Denmark at 1 January 1994 was 2.3 million of which 35.5 per cent consist of only one person. 23.8 per cent of the households have a woman as the only adult person in the household, while for men the figure is 15.5 per cent. Households consisting of a mother with one or more children are 3.5 per cent of the total amount; for men it is 0.5 per cent.

9. The unemployment rate (number of registered unemployed people as per cent of the labour force) in 1993 was 11.3 per cent for men and 13.7 per cent for women - in total 12.4 per cent. Since 1991 unemployment has increased significantly in correspondence with the general trend within the European Union.

10. During the last part of the nineteenth and the beginning of the twentieth century, Denmark has developed from a largely agricultural nation to an industrialized nation. As a result of this development, the Danish population has achieved a high standard of living. The average per capita income was Dkr. 169,900 (US$ 28,144) in 1993.

11. In 1993, the Danish gross domestic product amounted to Dkr. 881.8 billion (US$ 146,072 billion). The external debt, not including stocks and shares, was Dkr. 273 billion (US$ 45,223 billion) or 31 per cent of the gross domestic product. In 1993 the rate of inflation was 1.2 per cent.

12. The statistical data referred to above do not include the Faroe Islands and Greenland.

13. The Faroe Islands cover an area of 1,399 square kilometres with a population of 45,347 as of 1 January 1994 (23,489 men and 21,858 women). The life expectancy rate is 72.8 years for men and 79.6 years for women (1986-1990). Infant mortality was 10.8 for boys and 8.0 for girls that same period. The total fertility rate was 2.53 per cent in 1993. The literacy rate is estimated to be 100 per cent for adults. For 1992 the gross domestic product of the Faroe Islands is estimated to Dkr. 5,500 million (US$ 911 million). The rate of inflation was 0.8 per cent through 1993.

14. Greenland covers an area of 2,175,600 square kilometres with a population of 55,419 as of 1 January 1994 (29,624 men and 25,795 women). 99.4 per cent of the population are Danish citizens although only 87 per cent were born in Greenland. The rest of the population was almost exclusively born in Denmark. The life expectancy rate is 60.7 years for men and 68.4 years for women (1990). Infant mortality was 27.3 for boys and 20.8 for girls that same year. The total fertility rate is 2.58 per cent. The literacy rate in 1992 is estimated to be 100 per cent for adults. In 1992 the gross domestic product of Greenland was Dkr. 6.4 billion (US$ 1.06 billion). The rate of inflation was 1.0 per cent through 1993.

II. GENERAL POLITICAL STRUCTURE

A. The system of government

15. Denmark is a constitutional monarchy with a long tradition of independent, representative democracy. Danish parliamentarism began to evolve in the nineteenth century when political power was transferred from the absolute monarch to the Parliament. The principle of separation of power between the legislature, the executive and the judiciary was laid down in the Constitution of 1849.

16. Denmark has during the twentieth century gradually changed from a largely agricultural nation to an industrialized State. During the century Denmark has gradually developed into a welfare State. The period has been marked by a continuing expansion of the Danish social security system and a widespread economic development.

1. The Constitution of Denmark

17. The basic law of the State is the Constitution adopted by referendum in 1953. It is the successor to the 1849 Constitution. The Constitution sets out the essential rules governing the most important institutions of the State, the Government, the Parliament and the judiciary, and the relation between the institutions. The Constitution recognizes the existence of associations and thereby also political parties, which are the fundament of a

pluralistic democracy. It also defines the structure and powers of the courts and outlines what are considered the fundamental rights of the citizen with an enumeration of the basic provisions for the protection of civil, political, social and cultural rights. See part III.C for further details.

18. The Constitution can be amended only following the passage of a bill for the purposes of a new constitutional provision. If the Government wishes to proceed with the matter, writs shall be issued for the election of members of a new Parliament. If the bill is passed unamended by the Parliament assembling after the election, the bill shall within six months after its final passing be submitted to the electors for approval or rejection by direct voting. If a majority of the persons taking part in the voting, and at least 40 per cent of the electorate has voted in favour of the bill as passed by the Parliament and if the bill receives the royal assent it shall form an integral part of the Constitutional Act. The Constitution has been revised only four times, the last time being in 1953.

2. The legislative power

19. The national legislative authority rests with the Government and the Parliament conjointly. The Government and any member of Parliament can propose bills of law. All laws passed by Parliament must conform to the Constitution. The power to impose taxes and to give appropriations rests solely with the legislator which can make use of it only when adopting an annual Financial Act. The Constitution prohibits delegation of the power regarding taxes. Parliament legislates with responsibility to the electorate in all matters.

20. Denmark joined the European Community in 1973 and is now a member of the European Union. Part of the legislative power rests with the European Union. Thus, the European Union legislation comprises regulations which are legally binding and directly applicable in all member countries. It further contains directives which are binding as regards the result to be achieved upon each member State to which they are addressed, but allow the national Parliaments to choose the form and method of implementation. Denmark's membership of the European Community does not include the Faroe Islands and Greenland.

21. No bill can be finally passed before having been read three times in Parliament. At its first reading only the main points of the bill are treated. Before its second reading the bill is generally subjected to a standing committee procedure leading to a committee report. The report forms the basis of the second reading during which the bill is debated in its entirety and possible amendments are moved. The passing of the bill takes place during the third reading and demands the presence of at least 50 per cent of the members of Parliament (90 members). A bill passed by Parliament can only become law when signed by the Government and the monarch within 30 days. The Government is equally responsible for the promulgation of the laws and their coming into force.

22. The sittings of Parliament are public which enables individuals as well as the media to attend them. The parliamentary debates are published in the official report of the parliamentary proceedings.

3. The election and composition of Parliament

23. The Danish Parliament consists of an assembly which counts 179 members. The Constitution provides for the election of up to 175 members of Parliament in Denmark proper, with special rules governing the election of two supplementary members from the Faroe Islands and two from Greenland. Members of Parliament are elected by general, secret and direct ballots. Rules for the exercise of the suffrage are laid down in the Election Act. From the age of 18 citizens permanently residing in Denmark including foreigners having obtained citizenship, are entitled to vote in parliamentary elections and are equally eligible for membership thereof. Foreigners have a right to vote in the municipal elections. Voting is not compulsory, but at general elections a vast majority of the electorate (typically more than 80 per cent) exercise their right.

24. Parliament is elected by proportional representation. The procedure aims at achieving mathematical justice in the distribution of the seats above a minimum percentage of votes necessary for a party to be represented in Parliament. Independent candidates can stand for election. The distribution of seats among regions and among multi-member constituencies is mostly determined by population totals and population density in the respective areas of the country and is continuously being adjusted to new demographic developments. After a general election the official opening of the Parliament marks the beginning of a new election period which has a maximum duration of four years.

25. As a political means of pressure the Government holds the right of dissolution of Parliament. Thus, the Government can issue writs for a new election without having suffered a defeat in Parliament, with the effect that the existing seats must be vacated upon the election. If a vote of confidence regarding a major political issue shows failure to obtain a majority then the Government will, according to parliamentary tradition, resign.

26. Parliament consists of members from a relatively large number of political parties. The threshold rules ensure that only parties having obtained at least 2 per cent of voter support can achieve seats in Parliament. Parliament is mainly composed of members from four major parties, the Social Democrats, the Conservatives, the Liberals and the People's Socialists. Currently the party grouping of Parliament has a total of eight parties.

27. Under standing order parliamentary committees are appointed in the beginning of every sessional year which starts in October. The appointment is regulated by the Standing Orders of Parliament. The field of responsibility of the committees corresponds to the field of the ministries, which in number vary from Government to Government. At present there are 20 ministries. The main tasks of the committees are the active participation in the adoption of laws as well as forming part of ordinary political control of the field in question. Amongst the committees the Financial Affairs Committee, the Committee on European Affairs and the Foreign Affairs Committee take up important positions. When needed in specific cases further committees may be established by decision of Parliament. A number of State auditors are elected among the members of Parliament in order to examine the annual Public Accounts.

28. Members of Parliament are bound solely by their own conscience and not by directions given by the electorate. No member can be prosecuted or imprisoned unless caught red-handed and provided that consent is given by Parliament. Outside the parliamentary institution a member cannot be held liable for utterances in Parliament save by the consent of the same.

4. The executive power

29. The executive power rests with the Government which consists of all ministers under the leadership of the Prime Minister. The Government is appointed on the basis of a parliamentary decision. In case of disagreement between the parties the Government is appointed during a round of consultations with the monarch followed by a round of negotiations in Parliament. A Government which will instantly meet a vote of no confidence may not be appointed. The monarch holds the authority on the basis of a recommendation from the Prime Minister to appoint and dismiss ministers and to decide the distribution of the duties among the ministers. Ministers are responsible for all actions of the ministries under their resort. The daily administration is overseen by secretariats consisting of civil servants.

30. The Government prerogatives are warranted by the Constitution and cannot be interfered with by Parliament. For instance, the Government is authorized to act on behalf of the realm in international affairs, including signing of international conventions.

31. A total of 273 municipalities are responsible for public housing, water and sanitation, road maintenance, social security and certain other services. The services are funded partly by State grants and partly by municipal taxes. Health services are provided by 14 counties which are also responsible for other regional matters. The two counties, Copenhagen and Frederiksberg, have far more inhabitants than other Danish municipalities and they consequently take up special positions as they are made responsible for municipal as well as county matters.

5. Parliamentary control of the executive and control by the Ombudsman

32. In order to control the Government the Parliament needs information about its activities. Parliament can obtain information for instance through statements from ministers, through inquiries in Parliament or through questions which shall either be answered verbally or in writing. Moreover, specific acts of Government, especially concerning foreign policy, demand the consent of Parliament. By passing decisions Parliament can also make demands on the Government or limit its opportunities for action. The standing parliamentary committees, which are mentioned in paragraph 27, form part of the control of the executive. Government policy and administration may be examined and criticized in Parliament.

33. Since 1901 it has been an unfailing constitutional practice that a Government must step down if it finds itself in the minority in the Danish Parliament. Under the revision of the Constitution in 1953 the

principle of cabinet responsibility was directly confirmed and incorporated in the Constitutional Act. According to the Constitution cases of impeachment against ministers for maladministration of office can be brought before the High Court of the Realm.

34. Before making any decision of major importance to Danish foreign policy the Government has to consult the Foreign Policy Committee established by a special statute of the Parliament. The function of the Committee is to secure a parliamentary discussion of relevant topics before international negotiations have ended. The Committee is advisory and accordingly the Government is not legally bound by manifestations from Committee members.

35. The Government is empowered to act on behalf of Denmark in international affairs, but needs the consent of Parliament if acting in a way which either increases or reduces the Danish territory. In case of an armed attack upon Denmark or Danish military forces, however, the Government may act without the immediate consent of Parliament.

36. The Ombudsman is elected by Parliament, but is independent thereof, and is empowered to supervise any act of the administration. Thus the Ombudsman has to inform the ministers as well as Parliament about administrative errors and negligence of greater importance (see para. 58 below).

6. The Faroe Islands and Greenland

37. The Faroe Islands and Greenland are situated in the North Atlantic and are self-governing communities within the Danish Realm. The Home Rule Act of 1948 and the Home Rule Act of 1978 enabled the Faroe Islands and Greenland respectively to take over the responsibility for almost all fields of society appertaining exclusively to these communities. The executive power rests with the Home Rule Governments (Landsstyret) elected by the local Parliaments (Lagtinget on the Faroe Islands and Landstinget in Greenland respectively).

38. From 1953 the revised Danish Constitution provides that the Constitution shall apply to all parts of the Danish Realm. Since then each self-governing community, the Faroe Islands and Greenland, has been represented by two permanent members in the Danish Parliament. The constitutional status of the Faroe Islands and Greenland as parts of the Danish Realm sets certain limits to the scope of Home Rule: sovereignty continues to rest with the central authorities of the Realm and certain affairs of State may not be transferred to Home Rule. These exclusive affairs include, inter alia, external relations, defence policy, monetary policy and the administration of justice.

B. The court system

1. General courts

39. Rules are laid down, within the Constitution, governing the organization of the courts and the functioning of the legislature. The current rules are contained in the Administration of Justice Act of 1916 with later amendments.

40. Judges are appointed by the monarch on the recommendation of the Government (the Minister for Justice). Judges to the lower courts are primarily recruited from the Ministry of Justice and among deputy judges. A limited number of judges are recruited among teachers at the law faculties of the universities and among practising lawyers. The Constitution guarantees judges complete independence of the executive in the exercise of their duties, stating that they shall be guided solely by the law. It is laid down as a general rule that judges cannot be transferred against their wish and can be dismissed only by court judgement. A decision to dismiss a judge is made by the Special Court of Indictment and Revision, consisting of three professional judges; one from the Supreme Court, one from a high court and one from a lower court. Judges in Denmark retire at the age of 70. The remuneration of judges may not be reduced during their continuation in office.

41. It is a general rule of the Constitution that decisions of the administration can be brought before the general courts. The control of administrative decisions safeguards the principle of legality. The courts are empowered to deal with the issue of constitutionality of law and legislation.

42. Only professional judges sit in ordinary civil cases. In areas of civil law where a special expertise is considered valuable, the court may be assisted by lay judges with a special background, e.g. regarding child psychology in juvenile cases. Lay judges participate on a wide scale in criminal proceedings, both as jurors in cases regarding serious crimes and as assessors in cases regarding minor criminal offences. Furthermore experts participate in certain civil and criminal cases requiring specific knowledge, e.g. concerning commercial or maritime affairs.

(a) Jurisdiction

43. All general proceedings, civil, criminal and administrative; come under the jurisdiction of the courts: the district courts, the high courts and the Supreme Court. By means of appeal a case can generally be tried at two levels, although appeal in minor criminal and civil cases may require a leave to appeal from the Ministry of Justice.

44. According to the Administration of Justice Act civil cases are generally tried by the district courts in the first instance. The high courts function as the first instance in civil cases where the claimed value exceeds Dkr. 500,000 (US$ 80,000), in cases involving a review of decisions made by State complaints boards or ministries. District courts can refer cases within their jurisdiction to a high court on request of one or both parties of a civil law matter if the case for instance concerns a doubtful legal issue or is considered to have further important consequences for the individual parties or concerns a matter of public interest.

45. As a general rule criminal cases are tried in the first instance by the district courts. Severe criminal matters involving jurors are tried by the high courts in the first instance.

(b) The district courts

46. The district courts are of local, limited and original jurisdiction. Denmark is divided into 82 areas, in each of which the district court sits in a number of different venues. Only larger districts have more than one judge. The duties of a judge in a district court include, besides the actual administration of justice, the functions of bailiff, estate administrator, the notary as well as the responsibility for the system of records and registrations of mortgage.

(c) The high courts

47. Denmark has two high courts with full original jurisdiction in and power to determine all matters and questions whether of fact or of law. The courts can hear appeals from the district courts. The eastern high court (Østre Landsret) is seated in Copenhagen and has jurisdiction over the eastern islands of Denmark; and the western high court (Vestre Landsret) is seated in Viborg and embraces Jutland. The eastern high court at present has 46 judges, the western high court has 23. Three judges sit in any case tried by the high court. A special high court for Greenland functions as appeal court for the local district courts.

(d) The Supreme Court

48. The highest court in Denmark is the Supreme Court. It has no original jurisdiction and thus only functions as a court of final appeal in all cases, criminal, civil and administrative. The Court consists at present of 16 judges and usually functions in two divisions, each having at least five judges. Cases involving matters of major importance are heard by more judges, usually seven.

2. Special courts

49. In addition to the structure of courts described in the preceding paragraphs, a few special actions are referred for final or interim settlement by special courts or administrative authorities, the reason for it being a desire to supplement judicial knowledge by other expertise. Thus, the Maritime and Commercial Court deals with cases requiring special knowledge of maritime and commercial affairs and tax cases are dealt with by the Tax Tribunal. The Labour Court assists in solving conflicts in the labour market. The Special Court of Indictment and Revision mainly treats breaches of discipline of the judiciary and reopening of criminal cases. Decisions of some of the special organs may be appealed to the general courts unlike others, for instance the Labour Court, whose decisions are final.

50. The Constitution prohibits the establishment of extraordinary courts of justice with judicial authority. Therefore, the Commissions of Inquiry which may be established in order to treat specific matters are not empowered to give judgements.

3. International courts

51. As a member of the European Union Denmark is subject to the ruling of the Court of Justice of the European Communities. The jurisdiction of the Court is limited to cases regarding the application of the European Union Treaty or sources of law deriving therefrom. In general the national courts are competent to rule on questions concerning European Union law. The Treaty ensures, however, that the final competence to give statements on the interpretation and validity of European Union legislation with binding effect for the member States lies with the European Community Court. The importance of the Court is increasing with the growth in European Union regulation.

52. Denmark has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and has acknowledged the right of petition of individuals to the European Commission of Human Rights as well as the competence of the European Court of Human Rights.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Authorities holding jurisdiction affecting human rights

53. In the exercise of their functions, all Danish authorities, including Parliament (Folketinget), the courts and the administrative authorities, have an obligation to ensure compliance with the human rights principles and norms set forth in the Constitution and the international instruments ratified by Denmark. Individual conventions may be transformed into domestic law (see sect. D below). The possession of rights and freedoms is an inherent part of being a member of the Danish society.

54. The Parliament is subject to the control of the judiciary. Danish courts hold the authority to declare an act passed by Parliament unconstitutional. If the courts find that a law passed by Parliament is incompatible with the human rights principles and norms set forth in international instruments ratified by Denmark, the courts will only uphold the law in so far as it can be proven that Parliament was aware of the conflict at the time of the making of the law and intended to set aside the international legal obligations of Denmark.

55. The administrative authorities are subject to the control of the courts and the Ombudsman of the Parliament. The courts are responsible for the administration of justice. The independence and impartiality of the courts are safeguarded by the Constitution, the Administration of Justice Act, and the human rights instruments ratified by Denmark, in particular article 6 of the European Convention on Human Rights and article 14 of the International Covenant on Civil and Political Rights.

56. The courts hold the competence to review decisions and regulations made by the administrative authorities. The scope of the review varies with the circumstances of the case and the contents of the laws and regulations

relevant to the case. However, as a general rule the scope of the review can be considered to be wide. Questions regarding human rights obligations of the administrative authorities are always subject to the review of the Danish courts.

57. In criminal cases the courts are involved in the investigation in so far as the investigation requires coercive measures such as wire-tapping, search of private premises, detention on remand, etc. which need approval of the judiciary according to the Administration of Justice Act. The courts must ensure that the coercive measures are required in the circumstances of the case and that any given action does not violate human rights guarantees of the individual provided for in the Constitution or in international human rights instruments ratified by Denmark. In the adjudication of a criminal case the courts must ensure that the rights of the accused are respected and that the person involved is not convicted unless guilt is proven beyond any reasonable doubt.

58. The Ombudsman is an independent authority elected by the Parliament with the authority to investigate any administrative action within the civil central Government, the military forces and, as a general rule, within the local government administration. The Ombudsman can conduct an investigation either on the basis of a complaint from an individual affected by a certain administrative action or on his own initiative. Administrative secrecy may not be invoked against the Ombudsman. The Ombudsman is not empowered to hand down binding decisions regarding the subject matter of a case. The types of remedies at his disposal are referral back to the original agency, recommendations, and passing information regarding illegalities on to the appropriate authorities. In practice the Ombudsman has great influence on the administration conducted by the public authorities.

B. Remedies, compensation and rehabilitation

59. As appears from the information submitted in section A, human rights issues can be brought before the courts in civil law suits against the administrative authorities. The Danish court system provides the ultimately most effective remedy against human rights violations. Access to court in a civil law suit is as a general rule conditioned upon the plaintiff being directly affected by the administrative action or regulation that forms the basis of the legal action. Cases regarding allegations of discrimination on the labour market must be brought before the Labour Court, mentioned above in paragraph 49.

60. According to the general Danish rules of tort law, included in the Damages Liability Act, which have been developed through the case law of the courts, an individual is entitled to compensation for any loss or damage incurred as the result of a human rights violation for which Danish authorities are responsible. The same accounts for violations committed by individuals. The courts are competent to award compensation. With regard to expropriation, the Constitution states that a person who is subjected to expropriation according to the law must receive full compensation. The question whether the compensation given is adequate is subject to review by the courts.

61. Apart from the court system, an individual who alleges to have been subjected to a human rights violation by the administrative authorities has access to various other remedies, among others the Ombudsman, mentioned above under section A. Various independent councils funded by the State may investigate into different kinds of alleged human rights violations (see sect. C below). These councils may both look into human rights violations committed by the State and violations committed by other individuals.

1. Legal aid

62. Persons, including foreigners, in need of legal advice or legal representation in court may qualify for assistance with the costs out of public funds. Legal aid with respect to civil proceedings may be granted to those who satisfy financial eligibility conditions laid down in the Administration of Justice Act. The legal aid generally covers all relevant costs incurred with respect to the proceedings including salary to an advocate. An applicant must show that he or she has reasonable grounds for taking legal action. As a general rule the legal aid also covers the costs of the successful opponent of a legally aided party.

63. According to the Administration of Justice Act the court may decide that a party in a civil proceeding who is not represented by an advocate must be represented by an advocate if the court deems it necessary in the circumstances of the case. If special circumstances so require the court may appoint an advocate free of charge in so far as the conditions under the aforementioned legal aid scheme are satisfied.

64. Around the country various law centres provide free legal advice. These law centres are financed from various funds, including State funds. Much of their time is devoted to housing, employment, social security and immigration problems. The centres are generally staffed by lawyers and law students who contribute their time free of charge.

65. In criminal proceedings except for cases of a petty nature but including preliminary proceedings regarding detention on remand, and in proceedings regarding extradition the court must appoint a public defence counsel free of charge to the defendant if the defendant is not already represented by legal counsel. If the defendant is found guilty, the court may, however, decide that the costs of the case shall be borne by the defendant personally. The defendant may choose the defence counsel from a list of available advocates. Appointment of a defence counsel is obligatory in the majority of criminal cases; if a defence counsel is not appointed in such cases and the defendant does not have a personal defence counsel, a conviction of the defendant may be overturned through an appeal.

2. The position of victims of crime

66. If individuals allege to be the victims of a crime according to Danish law, they may submit an oral or written report to the police which will investigate the case. The police is also obliged to investigate crimes ex officio. If an investigation proves that there is reason to believe that a crime has been committed, it is up to the Public Prosecutor to instigate

criminal proceedings against the suspect(s). This procedure generally accounts for crimes committed by individuals as well as offences committed by administrative authorities.

67. Prosecution of crimes is generally left to the Public Prosecutor except for a few special crimes such as defamation where it is up to the victims to instigate criminal proceedings on their own. The Danish law of criminal procedure adheres to the expediency principle, whereby it is left to the Public Prosecutor to decide whether to prosecute criminal offences, although such a decision can be appealed to the State Prosecutor or the Prosecutor General, respectively. Only in cases of manifest mistakes, détournement de pouvoir or lack of impartiality on behalf of the Public Prosecutor the courts may refer back a decision not to prosecute. Danish courts may in no case order the Public Prosecutor to instigate criminal proceedings. In criminal proceedings the court may award the victim of the crime damages if the victim has submitted a request that the court do so. In jury trials, which are used in cases of very serious crimes, the victim may request that the Public Prosecutor prepare and present the victim's claim for damages during the criminal trial. In other criminal cases, the victim is informed of the dates for the hearing and is instructed that a claim for compensation can be presented to the court in person.

68. In criminal proceedings involving sexual offences the victim may as of right request to have a counsel appointed by the court. In cases involving violence and deprivation of liberty, etc. the victim may request to have a counsel appointed by the court if the circumstances so require.

3. Complaints against the police

69. Complaints against the police are processed by the Local Police Board. Complaints may be submitted directly to the Board, to the Chief Constable in charge or the court during criminal proceedings. The Board must decide whether the complaint shall be investigated further either by the courts or the Public Prosecutor. The Board may also on its own initiative, without a formal complaint having been submitted, decide that an investigation must be carried out. The Board does not have competence to decide whether criminal charges shall be brought against the alleged perpetrators within the police or whether disciplinary measures must be administered by the relevant police director. A committee of experts appointed by the Government has recently delivered a report conducting a review of the rules. The Ministry of Justice is expected to present new rules, which will lead to a change in the composition and the duties of the Board.

4. Appeal and remedies against wrongful conviction

70. The Administration of Justice Act generally guarantees the right of appeal to a higher court instance in both civil and criminal cases. In petty crime cases, however, an appeal will only be allowed on the basis of a permission obtained from the Ministry of Justice. According to the provisions on appeal in criminal cases both the convicted person and the Public Prosecutor have a right of appeal as a general rule.

71. An individual who has been found guilty in a criminal trial and who alleges to be the victim of a miscarriage of justice, may submit a petition for resumption of the case to the Special Court of Indictment and Revision. The Special Court may decide that the case shall be resumed if new evidence is produced and it is considered likely in case the evidence had been available at the trial, it might have caused the acquittal of the accused or the application of an essentially milder provision of the Criminal Code; if it is proven that false or falsified evidence was submitted or heard by the trial court and it is considered likely that such an offence may have caused or contributed to the conviction; or if in other respects special circumstances exist which make it overwhelmingly likely that the available evidence was not judged correctly.

72. If the resumption of the case results in the acquittal of the convicted person or the application of a milder provision of the Criminal Code, the victim of the wrongful conviction is entitled to compensation. The compensation covers economic damage as well as non-pecuniary damage. The compensation may be reduced or denied if the behaviour of the victim gave reason to the conviction.

5. Remedies against wrongful detention or coercive measures during criminal investigations

73. According to the Administration of Justice Act suspects who have been subjected to arrest, detention or other coercive measures during a criminal investigation are entitled to compensation if formal charges are not brought against him or her. The compensation covers pecuniary damage as well as non-pecuniary damage. The compensation may be reduced or denied if the behaviour of the suspect gave reason to employ the measures. Persons who have been subjected to coercive measures without being suspects may also be entitled to damages if the circumstances so require. An application for damages must be subjected to the Public Prosecutor. If the Public Prosecutor refuses to award damages, the applicant may demand that the case be brought before a court by the Public Prosecutor. The applicant is entitled to a counsel appointed by the court free of charge if the applicant so requires. The Court may, however, decide that the applicant shall bear the legal costs if the application is rejected. In 1987 Denmark ratified the European Convention on the Compensation of Victims of Violent Crimes.

6. Effective international remedies

74. An individual who is a victim of a human rights violation which falls under the European Convention on Human Rights may after having exhausted all effective Danish remedies submit a complaint to the European Commission of Human Rights (see art. 25 of the Convention, the so-called right of petition). If the case is referred to the European Court of Human Rights the Court may hand down a binding judgement against the Danish State (see art. 46 of the Convention). Denmark accepts the right of petition and the competence of the Court. The European Court of Human Rights is competent to award compensation to an individual who has been subject to a human rights violation which falls under the Convention in so far as the individual is unable to get adequate compensation from the State otherwise (see art. 50 of the Convention).

75. Denmark is a party to the Optional Protocol to the International Covenant on Civil and Political Rights, according to which individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all effective domestic remedies may submit written communications to the Human Rights Committee for consideration. The right of individual petition is also recognized under the International Convention on the Elimination of All Forms of Racial Discrimination and under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

C. Human rights guaranteed in constitution and law

1. The Constitution

76. Fundamental human rights are protected by the Danish Constitution. The protection covers civil, political, economic, cultural and social rights. The constitutional protection is mainly of a formal character in the sense that the substantial protection is generally provided for by supplementary legislation.

2. The law

77. In order to fulfil its obligations according to international treaties Denmark has adopted and thereby strengthened the protection of certain human rights through supplementary legislation.

(a) Non-discrimination

78. The basic assumption of equality is a major principle in all spheres of Danish law.

79. In 1983 Denmark ratified the Convention on the Elimination of All Forms of Discrimination against Women. Equality between men and women is a major goal in Danish society, and the foundation for the work of fulfilling this aim is an understanding of human rights and fundamental freedoms in the political, economic, social, cultural and civil or any other field as privileges to be enjoyed by all citizens, be they male or female.

80. Denmark has adopted various acts concerning equal treatment of men and women. The acts encourage and protect equal opportunities for men and women in society and in the labour market. The legislation does to a minor extent provide for affirmative action.

81. The Equal Status Council was established in 1978. The Council is empowered to promote equality between women and men in general. Furthermore, the Council may examine circumstances relating to equality either of its own motion or according to applications from individuals. Upon request employers, employees and their organizations are obliged to make available to the Council any information which may be of significance to the activities of it. The body does not hold power to sanction discrimination.

82. Under European Union legislation Denmark is obliged to eliminate any existing discrimination in statutory social security schemes providing protection against sickness, unemployment, invalidity, old age, accidents at work or occupational diseases. Denmark has implemented the legislation in its social security system.

83. With respect to the aim of eliminating all forms of racial discrimination or similar types of discrimination or less favourable treatment Denmark has adopted the Act on the Prohibition of Differential Treatment on the Grounds of Race of 1971. The act strengthens the protection of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 as it prohibits any differential treatment on the ground of race, colour, national or ethnic origin, religion or sexual orientation in the performance of commercial or public activity. Under the act criminal sanctions of up to six months' imprisonment are possible. The protection against discrimination at work is left to the parties of the labour market. According to a general rule of the Act on Private Registers of 1987 business entities may not register information about private matters of individuals concerning race, colour, religion and sexual orientation.

84. In order to prevent prospective incitement to racial hatred a provision has also been inserted in the Criminal Code. Accordingly, it is illegal to make statements or impart information whereby a group of people is threatened, insulted or degraded on account of its race, colour, national or ethnic origin, religion or sexual orientation. Under the said provision criminal sanctions of up to two years' imprisonment are possible. By the end of 1994, the Government had proposed a bill to amend the provision in such a way that a prison sentence is mandatory if it is found by the court that the offence amounts to propaganda.

85. Under the Board for Ethnic Equality Act of 1993 a mechanism is established to combat unequal treatment in all its aspects and to support all ethnic groups in society being given equal opportunities. The Board may at its own initiative or upon request investigate general issues which lie within the scope of its competence. The body does not deal with specific cases. It is advisory to all organs of society which may assist in making visible and countering ethnically motivated differential treatment.

(b) Civil and political rights

86. The protection of civil and political rights is highly respected in Danish law and society. Growing attention is paid to ensuring the integrity of all individuals as human beings, not only against the State, but against abuses of civil and political rights in general which are caused by the use of advanced technology, for instance.

87. Personal liberty and security. Denmark ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1987. Danish legislation was found to be in conformity with the Convention due to the existence of provisions of the Criminal Code which protect individuals against violence, ill-treatment and aggravated assault. The provisions cover physical as well as mental torture. The Criminal Code equally protects the right to life as it prohibits homicide. The death

penalty has been abandoned and in 1994 Denmark ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. An act from 1992 prohibits biomedical research projects on human beings or human cells which have not been approved by the regional or the central committee for ethical science. The right to free abortion for women was introduced in 1973. Until the expiry of the twelfth week of pregnancy women living in Denmark have this right. After the twelfth week induced abortion requires a specific permission from two councils concerned with these matters.

88. The Constitution prescribes that a person can be deprived of his liberty only where this is warranted by law. The Administration of Justice Act lists the reasons which may lawfully be applied when arresting a person. The Act lays down the principle that nobody may be subjected to arbitrary arrest or detention. Every person arrested must be brought before a judge for preliminary examination within 24 hours from the arrest if not released. Provisions of the act exhaustively regulate the conditions for remanding a person in custody. Judges are subjected to the impartiality principle. Accordingly, they cannot decide on the question of guilt in trials of persons whom they have decided to remand in custody on the ground of a particularly confirmed suspicion that the accused has committed a crime. The assessment of evidence is free in the sense that no general rules regulate the weight of given evidence. The court is bound by the proportionality principle as well as the principle of the substantial truth. The latter imposes on the court a duty to bring truth to light. The court is likewise bound by the principle of in dubio pro reo. Foreigners are allowed to have the free assistance of an interpreter.

89. The age of criminal responsibility is 15, and consequently acts committed by children under the age of 15 are not punishable. Interrogation of minors (15-17 years) may not be instigated without the local government being informed and having the possibility to attend. The punishment prescribed for punishable acts of such minors is to a great extent reduced if considered unnecessary or harmful because of the person's youth. Greenland is not subject to Danish criminal jurisdiction. The Criminal Law for Greenland has its roots in the conception of law of the indigenous inhabitants.

90. Outside criminal procedure the legality of the deprivation of liberty which has been executed by order of an administrative authority must be brought before court on request of the party concerned. The Act on Deprivation of Liberty and other use of Force in Psychiatry of 1989 institutes in every county a complaints board for patients as a controlling body. On request of the patient the hospital authority must lodge a complaint with the Board when concerning use of force during hospitalization.

91. The Criminal Code protects individuals from examination of mail, wire-tapping and similar interferences with any other private communication. It further protects the domestic peace and bans surveillance and searching in private areas as well as passing on of information of a private character. An act of 1982 prohibits private television surveillance of public areas. Only workplaces may utilize the surveillance in question in order to prevent intrusions. The Administration of Justice Act lays down as a general rule that the police need a court ruling to set aside the above-mentioned

protection. Only where prevention of crime or the investigative work so require is a court ruling not obligatory. After termination of such intrusions the police normally have to notify the persons involved. Provisions for the protection of personal integrity are enacted in the Act on Private Registers, which regulates among other things the use of computer files containing information about individuals. Administrative authorities are as a general rule obliged to offer individuals access to their documents if the latter contain information on them.

92. According to a general rule of the Aliens Act of 1983 refugees have a right to residence in Denmark if they are covered by the United Nations Convention relating to the Status of Refugees of 1951 or if they are placed in a similar situation which hinders them from returning safely to their country of origin. Complaints concerning the administration of the act can be brought before the Refugee Appeals Board.

93. The Constitution does not prohibit the adoption of retroactive penal legislation. It is a general legislative principle, though, that burdensome legislation ought not to enter into force retroactively. The Criminal Code thus bans the retroactive tightening of penal legislation in accordance with international law.

94. The Administration of Justice Act warrants a public administration of justice as a general rule. The court may decide to close the doors both during civil and criminal proceedings if the circumstances so require. The court can also choose to prohibit any revealing of the identity of the persons involved in the proceedings. A prohibition on public disclosure of information concerning the proceedings may be attached thereto.

95. Freedom of expression, association and assembly. The constitutional provision on freedom of expression does not as such include substantial protection on the freedom in question. The freedom is not absolute as the use thereof is closely connected to a responsibility before the court. Consequently a number of provisions are included in the Criminal Code penalizing defamatory statements as well as untrue charges. On the other hand the Constitution contains an absolute prohibition on censorship. The freedom of the press forms part of the provision on freedom of expression although not explicitly mentioned therein. The Media Liability Act was adopted in 1991. It limits the responsibility system of the Criminal Code and thereby widens the freedom of expression and information of the media. The freedoms are equally ensured by a limited obligation for journalists to give evidence in court. The previous code of ethics of the press has been incorporated into the Act and is supervised by the Press Council. The Council is empowered to reprimand offences, but does not hold power to sanction otherwise.

96. The freedom to form associations for any lawful purpose is warranted by the Constitution. The provision in question does not specifically regulate the freedom. In 1982 the Act on Protection against Dismissal on the Ground of Association was adopted.

97. According to the constitutional provision on freedom of assembly citizens have a right to assemble unarmed and without a previous permission. The Police Regulations demand, however, that they be notified beforehand of assemblies which take place on public areas such as streets.

(c) Economic and cultural rights

98. The protection of economic, cultural and in particular social rights has traditionally been given a high priority in Denmark as part of the Danish welfare system.

99. As an integral part of the welfare system everyone has a right to social security when meeting certain economic conditions. Thus, acts on social security offer a very wide protection to the unemployed, pensioners, single parents, students and other economically strained groups. Everyone with a permanent address in Denmark has the right to profit from the public health insurance system which is to a high degree free of charge. Specific councils deal with individuals' complaints concerning administration of the acts. All parents receive an annual contribution to the upbringing of their children.

100. Special acts have been passed in order to ensure handicapped persons equal enjoyment and exercise of possibilities in society. Thus, special tuition and personal assistance to handicapped persons engaged in employment aim at limiting the effect of any handicap. No distinction may be made between legitimate and illegitimate children with regard to inheritance.

101. The parties of the labour market regulate questions concerning working conditions through collective agreements. Through a so-called Main Agreement the parties have set up rules for the use of strikes, blockades, lockouts and boycotts. A special arbitration panel as well as the Labour Court have been set up by the State in order to assist in solving conflicts on the labour market. Specific legislation concerning employees in general has mainly been passed as an implementation of European Union directives. The right to be able to work under just and favourable conditions of work is ensured by the Act on Health and Safety at Work of 1985. It obliges employers to assure a certain minimum of safe and healthy working environment. Young people aged less than 15 may only be used for light work. The Working Inspection Board handles complaints brought before it. An Act on Insurance against Injuries at Work adopted in 1992 makes it compulsory for employers to insure employees against work injuries.

3. Derogation

102. No provisions in the Constitution provide for declaring a state of emergency. It is assumed in general theory, though, that one can be declared under imminent danger. Under such exceptional circumstances the exercise of certain constitutional freedoms may be modified on a provisional basis.

D. Incorporation and application of international human rights instruments under national law

103. Denmark has a "dualist" system under which international agreements to which Denmark becomes a party are not automatically incorporated into domestic law. When Denmark wishes to adhere to an international agreement it must, therefore, ensure that its domestic law is in conformity with the agreement in question. It is, however, not disputed that international law, including conventions, is a relevant source of law in Denmark. Provisions of human rights conventions are accordingly applicable before the Danish courts and administrative authorities.

104. During the late 1970s and the 1980s a debate took place in Denmark about the status of certain human rights conventions in Danish law, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights (ECHR) due to these treaties' special character as human rights treaties as opposed to other international agreements. The impact of the ECHR in the legislative process and before domestic courts was rather limited for a long period and it was cast into doubt whether the dualist approach hindered effective use and appliance of the ECHR before domestic courts. A committee of experts, including human rights experts, was appointed in 1990 to review the situation and in April 1992 Parliament passed a bill on the incorporation of the ECHR with Protocols 1 to 8. The ECHR is incorporated as an ordinary statute. The purpose of the incorporation was to clarify the state of law via a statute and to provide an explicit basis for the application in Denmark, securing that the status enjoyed by the ECHR in the legal system will be evident and providing the background for a more thorough knowledge of the ECHR, thereby generating a high degree of awareness of the human rights principles. The incorporation can be seen as having mainly psychological consequences by opening the eyes of the legal practitioners of the ECHR and the convention organs and improving the possibility of the national judges of having a human rights-updated level of protection in domestic courts decisions.

E. Information and publicity on human rights issues

105. Danish translations of binding international agreements concluded by Denmark as well as Danish legislation adopted in connection with the conclusion of international agreements are published in the Official Gazette. The Universal Declaration of Human Rights has been widely distributed in the official language of Denmark, the Faroe Islands and Greenland. The International Covenants on Civil and Political and on Economic, Social and Cultural Rights and the ECHR were at the time of ratification distributed to the ministries and government departments. In connection with the incorporation of the ECHR in 1992 an updated translation of the Convention was published as an annex to the incorporation act.

106. The Danish Government is responsible for the fulfilment of Denmark's obligations under human rights instruments to which Denmark is a party, and for the preparation of reports due under the different instruments. On behalf of the Government the Ministry of Foreign Affairs prepares such reports with the assistance of the specialized ministries concerned.

107. Since its establishment in 1987, the Danish Centre of Human Rights has become a vital centre for activities relating to human rights, among these the dissemination of information, both to the public and to professionals. The Centre is a self-governing and independent institution funded by the Danish Parliament and has the following purposes:

(a) To facilitate independent Danish research efforts in the area of human rights law;

(b) To arrange and encourage human rights education on all levels;

(c) To produce information for the use of non-governmental organizations, researchers, public institutions and the general public, including the establishment of a public computerized library and documentation facilities;

(d) To promote the coordination of NGO work on human rights law and the building of human rights documentation;

(e) To support and work for other international cooperation in the field of human rights.

The Centre is headed by a Board and a Council, composed of representatives from NGOs, the universities and the political parties represented in Parliament.

108. The promotion of awareness of human rights is crucial to making human rights an integral part of all aspects of society. Special efforts are made to enhance such awareness through education in human rights on most levels of the pubic educational system in Denmark and in the education of lawyers at the universities. The Danish Centre of Human Rights equally seeks to promote knowledge of human rights through cooperation with different educational institutions.